

General Civil and Domestic Relations Case Filing Information Form

 Superior or State Court of Chatham County

For Clerk Use Only

Date Filed 4/21/2021

Case Number STCV21-00766

MM-DD-YYYY

Plaintiff(s)

Irvin, Martin

Last First Middle I. Suffix Prefix

Defendant(s)

Richard, Terris

Last First Middle I. Suffix Prefix

Three Gen, Inc.

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Plaintiff's Attorney Marcus Roberts, Esq.

Bar Number 439158

Self-Represented

Check One Case Type in One Box

General Civil Cases

- Automobile Tort
- Civil Appeal
- Contract
- Garnishment
- General Tort
- Habeas Corpus
- Injunction/Mandamus/Other Writ
- Landlord/Tenant
- Medical Malpractice Tort
- Product Liability Tort
- Real Property
- Restraining Petition
- Other General Civil

Domestic Relations Cases

- Adoption
- Dissolution/Divorce/Separate Maintenance
- Family Violence Petition
- Paternity/Legitimation
- Support – IV-D
- Support – Private (non-IV-D)
- Other Domestic Relations

Post-Judgment – Check One Case Type

- Contempt
- Non-payment of child support, medical support, or alimony
- Modification
- Other/Administrative

Check if the action is related to another action(s) pending or previously pending in this court involving some or all of the same parties, subject matter, or factual issues. If so, provide a case number for each.

Case Number

Case Number

I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in O.C.G.A. § 9-11-7.1.

Is an interpreter needed in this case? If so, provide the language(s) required.

Language(s) Required

Do you or your client need any disability accommodations? If so, please describe the accommodation request.

**IN THE STATE COURT OF CHATHAM COUNTY
STATE OF GEORGIA**

MARTIN IRVIN)
vs.)
Plaintiff,)
vs.)
TERRIS RICHARD, and)
THREE GEN INC.)
Defendants.)
CIVIL ACTION NO. STCV21-00766

CERTIFICATION UNDER RULE 3.2

Pursuant to Rules 3.2 and 3.4 of the Uniform State Court Rules and Local Rules of the Eastern Judicial Circuit of Georgia, I hereby certify that no case has heretofore been filed in the State Court of the Eastern Judicial Circuit involving substantially the same parties or substantially the same subject matter or substantially the same factual issues which would require the petition-pleading to be specifically assigned to the judge whom the original action was or is assigned.

This 21st day of April, 2021.

KENNETH S. NUGENT, P.C.

/s/Marcus Roberts
MARCUS ROBERTS
Georgia Bar No. 439158
JAN P. COHEN
Georgia Bar No. 174337
Attorneys for Plaintiff

One 10TH Street, Suite 550
Augusta, GA 30901
(706) 396-5929 (Telephone)
(706) 396-5967 (Facsimile)
mroberts@attorneykennugent.com

*In The State Court of Chatham County*

133 Montgomery Street, Room 501, Savannah, GA 31401

www.statecourt.org • Phone (912) 652-7224 • FAX (912) 652-7229 • clerk@statecourt.org

MARTIN IRVIN

STCV21-00766

Plaintiff

Case Number**Vs****TERRIS RICHARD and
THREE GEN INC.**

Address of Defendant

Terris Richard address: 137 Bowman Lane,
Walterboro, SC 29488
Three Gen Inc address: 4373 Low Country Hwy
Yemassee, SC 29945

Defendant

SUMMONS

TO THE ABOVE NAMED DEFENDANT: Terris Richard

Defendant's Address 137 Bowman Lane, Walterboro, SC 29488

You are hereby summoned and required to efile (<https://georgia.tylerhost.net/ofsweb/>) with the Clerk of said Court and serve upon Plaintiff's Attorney, whose name and address is:Marcus Roberts, Esq. of the Law Firm Kenneth S. Nugent, P.C.
One 10th Street, Suite 550
Augusta, GA 30901

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, Judgment by default will be taken against you for the relief demanded in the complaint.

*Brian K. Hart***CLERK OF COURT**
State Court of Chatham County

/s/ Moneisha Green

Deputy Clerk, State Court of Chatham County

Not valid until
signed and sealed
by a Deputy Court
Clerk**PRINT**

27. Summons 03-24-2021

*In The State Court of Chatham County*

133 Montgomery Street, Room 501, Savannah, GA 31401

www.statecourt.org • Phone (912) 652-7224 • FAX (912) 652-7229 • clerk@statecourt.org

MARTIN IRVIN

STCV21-00766

Plaintiff

Case Number**Vs****TERRIS RICHARD and
THREE GEN INC.**

Address of Defendant

Terris Richard address: 137 Bowman Lane,
Walterboro, SC 29488
Three Gen Inc address: 4373 Low Country Hwy
Yemassee, SC 29945

Defendant

SUMMONSTO THE ABOVE NAMED DEFENDANT: Three Gen Inc.Defendant's Address through their Registered Agent: Carol B. Connelly, 3303 Ashton Road, Islandton, SC 29929**You are hereby summoned and required to efile (<https://georgia.tylerhost.net/ofsweb/>) with the Clerk of said Court and serve upon Plaintiff's Attorney, whose name and address is:****Marcus Roberts, Esq. of the Law Firm Kenneth S. Nugent, P.C.
One 10th Street, Suite 550
Augusta, GA 30901****an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, Judgment by default will be taken against you for the relief demanded in the complaint.***Brian K. Hart***CLERK OF COURT
State Court of Chatham County**/s/ Moneisha Green

Deputy Clerk, State Court of Chatham County

Not valid until
signed and sealed
by a Deputy Court
Clerk**PRINT**

27. Summons 03-24-2021

IN THE STATE COURT OF CHATHAM COUNTY
STATE OF GEORGIA

MARTIN IRVIN,

Plaintiff,

v.

TERRIS RICHARD, and THREE GEN INC.

Defendant.

CIVIL ACTION FILE NO.

STCV21-00766

COMPLAINT FOR DAMAGES

COMES NOW, Plaintiff MARTIN IRVIN in the above-styled action, and brings this Complaint for Damages against Defendant TERRIS RICHARD, (hereinafter "Defendant RICHARD") and Defendant THREE GEN INC, (hereinafter "Defendant THREE GEN"), and respectfully shows this Court the following:

PARTIES AND JURISDICTION

1.

Plaintiff is a resident of the State of Georgia and has been a resident of the State of Georgia at all times relevant to this case.

2.

Defendant RICHARD is a resident of the State of South Carolina and may be served with a copy of this Complaint and Summons at his place of residence, 137 Bowman Lane, Walterboro, SC 29488.

3.

Defendant RICHARD is subject to the jurisdiction and venue of this Court, pursuant to O.C.G.A § 9-10-90 et seq. and the applicable long-arm statutes of the State of Georgia.

4.

Defendant THREE GEN is a Foreign For Profit Corporation incorporated in the State of South Carolina with its principal place of business located at 4373 Low County Highway Yemassee, SC 29945.

5.

Defendant THREE GEN may be served with a copy of this Complaint through its registered agent, Carol B. Connelly, 3303 Ashton Road, Islandton, SC 29929. Defendant THREE GEN is subject to the jurisdiction and venue of this Court.

6.

Defendant THREE GEN is subject to the jurisdiction and venue of this Court, pursuant to O.C.G.A § 9-10-90 et seq. and the applicable long-arm statutes of the State of Georgia.

7.

The State Court of Chatham County is the court of proper venue in this action.

8.

The State Court of Chatham County has jurisdiction over the subject matter of this action.

9.

Jurisdiction and venue are proper in this Court.

BACKGROUND

10.

On or about May 27, 2019, Defendant RICHARD, was operating a 2019 INTL HX 2520 traveling east on Jimmy DeLoach Parkway, at or near its intersection with Benton

Boulevard.

11.

On May 27, 2019, Plaintiff was operating a 2015 Dodge Durango traveling north on Benton Boulevard, at or near its intersection with Jimmy DeLoach Parkway.

12.

The intersection of Jimmy DeLoach Parkway and Benton Boulevard is controlled by stop signs for traffic traveling on both roads.

13.

As Plaintiff was coming to the intersection of Jimmy DeLoach Parkway and Benton Boulevard, without warning, Defendant RICHARD, drove his vehicle into the intersection causing the front of Plaintiff's vehicle to strike the passenger side of Defendant's vehicle, thereby causing the collision.

14.

On or about May 27, 2019, Defendant THREE GEN was the owner of the 2019 INTL HX 2520 driven during the collision by Defendant RICHARD.

15.

On or about May 27, 2019, Defendant THREE GEN employed Defendant RICHARD.

16.

The collision occurred as a direct and proximate result of Defendants' joint and several negligence, failure to exercise ordinary care, and disregard for the safety of others when Defendant THREE GEN, negligently entrusted the vehicle to Defendant RICHARD, who committed tort.

COUNT ONE: NEGLIGENCE OF DEFENDANT RICHARD

17.

Plaintiff realleges and incorporates by reference his allegations as set forth in paragraphs 1 through 16 above as though fully set forth herein.

18.

On May 27, 2019, Defendant RICHARD was operating a 2019 INTL HX 2520, owned and controlled by Defendant THREE GEN.

19.

Defendant RICHARD was operating said vehicle as an agent of Defendant THREE GEN, within the scope of his employment, and with the express permission of Defendant THREE GEN.

20.

On May 27, 2019, Defendant RICHARD was operating a motor vehicle in a reckless and negligent manner in the State of Georgia.

21.

Defendant RICHARD, was negligent in one or more of the following ways:

- (a) Defendant RICHARD failed to stop, steer away or take other evasive action to avoid the collision giving rise to this claim; failure to maintain control of his vehicle;
- (b) Defendant RICHARD failed to post a proper lookout;
- (c) Defendant RICHARD failed to exercise ordinary care;
- (d) Defendant RICHARD failed to yield at a stop sign;
- (e) Defendant RICHARD was distracted driving; and,

(f) Defendant RICHARD drove in a reckless manner.

22.

Further, the actions of the Defendant RICHARD, constitute a direct violation of numerous statutes of the State of Georgia, with such violations constituting negligence per se or negligence as a matter of law. These statutory violations are:

OCGA § 40-6-390, Reckless driving;

OCGA § 40-6-241, Distracted Driving;

OCGA § 40-6-93, Drivers to exercise due care; and

OCGA § 40-6-20, Failure to Obey Traffic Control Device.

COUNT TWO: NEGLIGENCE AND VICARIOUS LIABILITY OF

DEFENDANT THREE GEN EQUIPMENT RENTAL

23.

Plaintiff realleges and incorporates by reference his allegations as set forth in paragraphs 1 through 22 above as though fully set forth herein.

24.

On or about May 27, 2019, Defendant THREE GEN employed Defendant RICHARD.

25.

Defendant THREE GEN entrusted its 2019 INTL HX 2520 to Defendant RICHARD.

26.

At all times pertinent to the case, Defendant RICHARD was an employee of Defendant THREE GEN.

27.

At the time of the incident herein complained of, Defendant RICHARD was acting within the course and scope of his employment for Defendant THREE GEN.

28.

Defendant THREE GEN is vicariously liable for the conduct of its agent and/or employee, Defendant RICHARD, under the doctrine of respondeat superior.

COUNT THREE: NEGLIGENT HIRING/NEGLIGENT RETENTION

29.

Plaintiff realleges and incorporates by reference his allegations as set forth in paragraphs 1 through 28 above as though fully set forth herein.

30.

Defendant THREE GEN is liable for the negligent hiring and retention of its agent and/or employee, Defendant RICHARD.

31.

Defendant THREE GEN was negligent in hiring Defendant RICHARD and entrusting him to drive.

32.

Defendant THREE GEN was negligent in failing to properly train Defendant RICHARD.

33.

Defendant THREE GEN was negligent in failing to properly supervise Defendant RICHARD.

34.

Defendant THREE GEN's negligence in hiring Defendant RICHARD and entrusting him with driving its vehicle and failing to train and supervise him properly was the sole and proximate cause of the collision, and Plaintiff's resulting injuries.

35.

On May 27, 2019, Defendant RICHARD, was operating the 2019 INTL HX 2520 with the full consent and authority of Defendant THREE GEN EQUIPMENT RENTAL.

36.

Defendant THREE GEN was negligent and the proximate cause of the aforesaid loss because:

- (a) Defendant THREE GEN negligently entrusted the vehicle to Defendant RICHARD; and,
- (b) Defendant THREE GEN is responsible for Defendant RICHARD's actions and negligence under the doctrine of respondeat superior.

37.

Defendant THREE GEN is vicariously liable for the actions of Defendant RICHARD.

38.

All of the injuries, losses, and damages, past, present, and prospective to Plaintiff were, are, and will be due to the joint and several negligence and carelessness of the Defendants.

COUNT FOUR: DAMAGES

39.

Plaintiff realleges and incorporates by reference his allegations as set forth in

paragraphs 1 through 38 above as though fully set forth herein.

40.

As a direct and proximate result of the negligent actions of the Defendant RICHARD, and Defendant THREE GEN, Plaintiff:

- (a) Was injured in and about his body and extremities, suffered extreme pain of mind and body; the injuries are either permanent or continuing in nature;
- (b) Incurred medical expenses to date in the amount of \$83,049.29;
- (c) Suffered loss of income, property damage, and pain and suffering;
- (d) The injuries are either permanent or continuing in nature and Plaintiff will incur future medical expenses, lost wages, and the foregoing amount(s) are subject to change.

41.

WHEREFORE, Plaintiff prays and respectfully demands as follows:

1. That Defendants be served with summons, process and a copy of this Complaint;
2. That Plaintiff obtain judgment against Defendants for special damages, general damages and punitive damages as determined at trial as well as costs of litigation and expenses;
3. That Plaintiff be granted a trial by jury as to all triable issues in this cause; and,
4. For such other and further relief as this Court deems just and equitable under all circumstances alleged and contained herein.

[SIGNATURE ON FOLLOWING PAGE]

This 21st day of April, 2021.

KENNETH S. NUGENT, P.C.

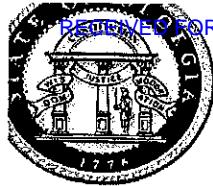
/s/ Marcus Roberts

Marcus Roberts
Georgia Bar No. 439158
Jan P. Cohen
Georgia Bar No.:174337
Attorneys for Plaintiff

OF COUNSEL:

KENNETH S. NUGENT, P.C.
Augusta Riverfront Center
One 10th Street, Suite 550
Augusta, GA 30901
Phone: (706) 396-5429
Facsimile: (706) 724-3555
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KENNETH S. NUGENT, P.C.
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Brumback

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MARTIN IRVIN

STCV21-00766

Case Number

Plaintiff

Versus

TERRIS RICHARD and

THREE GEN INC.

Defendant

STATEMENT OF REQUIREMENT

The attached original discovery material, entitled, Plaintiff's First Request for Admissions to Terris Richard and Plaintiff's First Request for Admissions to Three Gen Inc.

is hereby submitted to the State Court of Chatham County for filing under the provisions of Rule 5.2 of the Uniform Rules for the Superior and State Courts and O.C.G.A. 9-11-29.1 (a)(1)-(5). The materials proffered are:

Required by the Court.

Required for use at trial.

Required for the Court's consideration of a pre or post trial motion

Respectfully submitted this 21ST day of APRIL, 2021

Attorney's Printed Name Marcus Roberts, Esq.

Address: One 10th Street, Suite 550

Augusta, GA 30901

Telephone #: (706) 396-5429 GA Bar #: 439158

Attorney's Signature

IN THE STATE COURT OF CHATHAM COUNTY
STATE OF GEORGIA

MARTIN IRVIN,	:	
Plaintiff,	:	
v.	:	CIVIL ACTION FILE NO.
TERRIS RICHARD, and THREE GEN INC.	:	<u>STCV21-00766</u>
Defendant.	:	

PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS

TO: TERRIS RICHARD, and his attorney of record

COMES NOW the Plaintiff in the above-styled action, by and through his attorneys, Kenneth S. Nugent, P.C. and herewith serves upon you the following Request for Admissions, pursuant to the Georgia Civil Practice Act, and requires Defendant TERRIS RICHARD, to answer the following Admissions, separately and fully in writing under oath and to serve a copy of the answers on the undersigned within forty-five (45) days after the service of these requests, as provided by law. You are advised that if you fail to admit any of the Request for Admissions and the Plaintiff is required to prove any fact contained in the Request at trial, the Plaintiff may seek all expenses incurred in making the proof, including reasonable attorneys' fees.

REQUEST FOR ADMISSIONS

1.

Defendant TERRIS RICHARD admits that he has been properly served with a copy of the Summons and Complaint as required by law.

2.

Defendant RICHARD admits that this Court has personal jurisdiction over him.

3.

Defendant RICHARD admits that this Court has subject-matter jurisdiction in this case.

4.

Defendant RICHARD admits that venue is proper in this case.

5.

Defendant RICHARD admits that he does not have any defense based on insufficiency of process or insufficiency of service of process.

6.

Defendant RICHARD admits he was operating a 2019 INTL HX 2520 in an unsafe manner immediately before the incident described in the Complaint occurred.

7.

Defendant RICHARD admits that the 2019 INTL HX 2520 he was operating at the time of the incident described in the complaint was unsafe.

8.

Defendant RICHARD admits he caused the collision described in the Complaint.

9.

Defendant RICHARD admits that Plaintiff MARTIN IRVIN sustained damages as a result of the subject collision.

10.

Defendant RICHARD admits that at the time of the collision, there were no obstructions to his vision.

11.

Defendant RICHARD admits he was driving recklessly at the time of the incident.

12.

Defendant RICHARD admits that Plaintiff MARTIN IRVIN did nothing whatsoever to contribute to the accident.

13.

Defendant RICHARD admits that he owned a cellphone at the time of the incident described in the complaint.

14.

Defendant RICHARD admits at the time of the collision he was using his cellphone.

15.

Defendant RICHARD admits that he knew the vehicle he was driving was unsafe before driving on the day of the incident described in the complaint.

16.

Defendant RICHARD admits that he should have known the vehicle he was driving was unsafe before driving on the day of the incident described in the complaint.

17.

Defendant RICHARD admits that he was issued a citation as a result of the collision described in the complaint.

18.

Defendant RICHARD admits that he was convicted of the offense of failing to yield as a result of the citation he received.

19.

Defendant RICHARD admits that he did fail to yield the right of way to Plaintiff.

This 21ST day of April, 2021.

KENNETH S. NUGENT, P.C.

/s/ Marcus Roberts

Marcus Roberts, Esq.
Georgia Bar No. 439158
Jan P. Cohen
Georgia Bar No.:174337
Attorneys for Plaintiff

OF COUNSEL:

KENNETH S. NUGENT, P.C.
Augusta Riverfront Center
One 10th Street, Suite 550
Augusta, GA 30901
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Facsimile: (706) 724-3555
email: mroberts@attorneykennugent.com

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4227 Pleasant Hill Road
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Duluth, Georgia 30096
Phone: (770) 495-6694
Facsimile: (770) 495-6760
email: jcohen@attorneykennugent.com

IN THE STATE COURT OF CHATHAM COUNTY
STATE OF GEORGIA

MARTIN IRVIN, :
Plaintiff, :
v. :
TERRIS RICHARD, and THREE GEN, INC., :
Defendant. :
CIVIL ACTION FILE NO.
STCV21-00766

PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS

TO: THREE GEN, INC. (hereinafter "THREE GEN") and its attorney of record.

COMES NOW the Plaintiff in the above-styled action, by and through their attorneys, Kenneth S. Nugent, P.C. and herewith serves upon you the following Request for Admissions, pursuant to the Georgia Civil Practice Act, and requires Defendant THREE GEN to answer the following Admissions, separately and fully in writing under oath and to serve a copy of the answers on the undersigned within forty-five (45) days after the service of these requests, as provided by law. You are advised that if you fail to admit any of the Request for Admissions and the Plaintiff is required to prove any fact contained in the Request at trial, the Plaintiff may seek all expenses incurred in making the proof, including reasonable attorneys' fees.

REQUEST FOR ADMISSIONS

1,

Defendant THREE GEN admits that it has been properly served with a copy of the Summons and Complaint as required by law.

2.

Defendant THREE GEN admits that this Court has personal jurisdiction over it.

3.

Defendant THREE GEN admits that this Court has subject-matter jurisdiction in this case.

4.

Defendant THREE GEN admits that venue is proper in this case.

5.

Defendant THREE GEN admits that it does not have any defense based on insufficiency of process or insufficiency of service of process.

6.

Defendant THREE GEN admits it owns/owned the 2019 INTL HX 2520 driven by Defendant RICHARD on the day of the incident described in the complaint.

7.

Defendant THREE GEN admits that the 2019 INTL HX 2520 driven by Defendant RICHARD on the day of the incident described in the complaint was unsafe.

8.

Defendant THREE GEN admits its unsafe vehicle caused the collision described in the Complaint.

9.

Defendant THREE GEN admits that Plaintiff MARTIN IRVIN sustained damages as a result of the subject collision.

10.

Defendant THREE GEN admits that, at all times pertinent to the case, Defendant RICHARD was an employee of THREE GEN, INC.

11.

Defendant THREE GEN admits that at the time of the incident complained of herein, Defendant RICHARD was acting within the course and scope of his employment with THREE GEN, INC.

12.

Defendant THREE GEN admits that it is vicariously liable for the conduct of its employee and/or agent, Defendant RICHARD.

This 21st day of April, 2021.

KENNETH S. NUGENT, P.C.

Marcus Roberts, Esq.
Georgia Bar No. 439158
Jan P. Cohen
Georgia Bar No.:174337
Attorneys for Plaintiff

OF COUNSEL:

KENNETH S. NUGENT, P.C.
Augusta Riverfront Center
One 10th Street, Suite 550
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email: jcohen@attorneykennugent.com

From: [Marcus Roberts \(AUG\)](#)
To: [Shawn Kalfus](#)
Cc: [Sheetal Brahmbhatt](#); [MaryBeth Lopez](#)
Subject: RE: Martin Irvin
Date: Monday, May 17, 2021 8:56:57 AM
Attachments: [KSNNLogo365_f0c3a84a-f5b1-4e22-a5a7-971fc118ccfc.png](#)
[TwitterLogo2020365_d739ac41-68b3-49d9-a603-ee5d3f6dc147.png](#)
[YTStack2020365_63e01d5a-6c93-434b-ba17-da8131f81893.png](#)
[RSS2020365_07c0c741-cdf9-4721-84a1-3e79d5f56aaa.png](#)
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[Google2020365_82c88f87-f4cf-40ca-a499-190418074006.png](#)
[KSNNLogo365_d0e7f542-890a-4220-82bf-6f06e3901ce3.png](#)

Shawn,

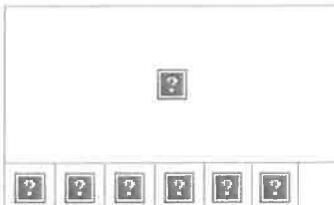
Good morning. Sorry for taking so long to get back to you. Last week was a crazy time with courts opening back up.

I looked into this and that is not a stipulation I can make, but I will be trying to complete getting the medical bills and records to you and the adjuster so we can hopefully work this out.

Please let me know if you need anything else from me.

Sincerely,

Marcus Roberts
Attorney At Law
Kenneth S. Nugent, P.C.
One 10th Street
Suite 550
Augusta, GA 30901
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From: Shawn Kalfus [mailto:shawn.kalfus@stonekalfus.com]

Sent: Thursday, May 13, 2021 2:36 PM

To: Marcus Roberts (AUG) <mroberts@attorneykennugent.com>

Cc: Sheetal Brahmbhatt <sheetal.brahmbhatt@stonekalfus.com>; MaryBeth Lopez <marybeth.lopez@stonekalfus.com>

Subject: Martin Irvin

Marcus,

I have been retained to defend this lawsuit. We look forward to working with you.

Our intent is to remove the case to federal court. However, if you are willing to stipulate that your client will neither seek nor accept damages in excess of the sum or value of \$75,000.00, exclusive of interest and costs, we will agree to keep the case in state court.

Will you so stipulate?

Please let me know as soon as possible.

Thanks

Shawn

SHAWN N. KALFUS
STONE KALFUS LLP
ATLANTA | LOS ANGELES | SAN DIEGO

ONE MIDTOWN PLAZA, 1360 PEACHTREE STREET NE, SUITE 1250, ATLANTA, GA 30309
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